

107TH CONGRESS  
1ST SESSION

# H. R. 1918

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2001

Mr. CANNON (for himself, Mr. BERMAN, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Student Adjustment  
3 Act of 2001”.

4 **SEC. 2. RESTORATION OF STATE OPTION TO DETERMINE**  
5 **RESIDENCY FOR PURPOSES OF HIGHER EDU-**  
6 **CATION BENEFITS.**

7       (a) IN GENERAL.—Section 505 of the Illegal Immi-  
8 gration Reform and Immigrant Responsibility Act of 1996  
9 (division C of Public Law 104–208; 110 Stat 3009–672;  
10 8 U.S.C. 1623) is repealed.

11       (b) EFFECTIVE DATE.—The repeal made by sub-  
12 section (a) shall take effect as if included in the enactment  
13 of the Illegal Immigration Reform and Immigrant Respon-  
14 sibility Act of 1996.

15 **SEC. 3. ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM**  
16 **RESIDENT STUDENTS.**

17       (a) IN GENERAL.—Section 240A of the Immigration  
18 and Nationality Act (8 U.S.C. 1229b) is amended—

19               (1) in paragraph (3) of subsection (b)—

20                       (A) by striking “paragraph (1) or (2)” and  
21                       inserting “paragraph (1), (2), or (3)” each  
22                       place it appears;

23                       (B) by redesignating such paragraph as  
24                       paragraph (5); and

25                       (C) by moving such paragraph to follow  
26                       paragraph (4);

(2) by inserting after paragraph (2) of subsection (b) the following new paragraph:

“(3) SPECIAL RULE FOR CHILDREN IN MIDDLE OR SECONDARY SCHOOL.—

“(A) AUTHORITY.—Subject to subparagraph (B), the Attorney General shall cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that—

“(i) the alien has not, at the time of application, attained the age of 21;

“(ii) the alien was physically present in the United States on the date of the enactment of the Student Adjustment Act of 2001 and has been physically present in the United States for a continuous period of not less than five years immediately preceding the date of such application;

“(iii) the alien has been a person of good moral character during such period; and

“(iv) the alien, at the time of application, is enrolled at or above the 7th grade level in a school in the United States or is

1 enrolled in or actively pursuing admission  
2 to an institution of higher education in the  
3 United States as defined in section 101 of  
4 the Higher Education Act of 1965 (20  
5 U.S.C. 1001).

6 The Attorney General shall provide a procedure  
7 by regulation allowing eligible individuals to  
8 apply affirmatively for the relief available under  
9 this paragraph without being placed in removal  
10 proceedings. An alien shall not be considered to  
11 have failed to maintain continuous physical  
12 presence in the United States for purposes of  
13 clause (ii) by virtue of brief, casual, and inno-  
14 cent absences from the United States.

15 “(B) RESTRICTIONS ON AUTHORITY.—The  
16 provisions of this paragraph shall not apply to  
17 any of the following aliens:

18 “(i) An alien who is inadmissible  
19 under section 212(a)(2)(A)(i)(I) or is de-  
20 portable under section 237(a)(2)(A)(i) (re-  
21 lating to crimes of moral turpitude), unless  
22 the Attorney General determines that the  
23 alien’s removal would result in extreme  
24 hardship to the alien, the alien’s child, or

1 (in the case of an alien who is a child) to  
2 the alien's parent.

3 “(ii) An alien who is inadmissible  
4 under section 212(a)(3) or is deportable  
5 under section 237(a)(2)(D)(i) or  
6 237(a)(2)(D)(ii) (relating to security and  
7 related grounds).”; and

8 (3) in subsection (d)(1)(A), by inserting “or  
9 (b)(3)” after “subsection (b)(2)”.

10 (b) EXEMPTION FROM NUMERICAL LIMITATIONS.—  
11 Section 240A(e)(3) of such Act (8 U.S.C. 1229b(e)(3))  
12 is amended by adding at the end the following new sub-  
13 paragraph:

14 “(C) Aliens described in subsection  
15 (b)(3).”.

16 (c) GRANDFATHER PROVISIONS.—For purpose of ap-  
17 plying section 240A(b)(3) of the Immigration and Nation-  
18 ality Act (as inserted by subsection (a)) with respect to  
19 an application filed under such section not later than 120  
20 days after the effective date of regulations implementing  
21 this section—

22 (1) an individual shall be considered to be  
23 under the age of 21 if the individual's 21st birthday  
24 occurs after the date of the enactment of this Act

1 but no more than 120 days after the effective date  
2 of such regulations; and

3 (2) an individual shall be treated as meeting the  
4 requirements of clauses (i), (ii), and (iv) of subpara-  
5 graph (A) of such section if—

6 (A) the individual would have met such re-  
7 quirements based upon an application filed at  
8 any time during the 4-year period ending on the  
9 date of the enactment of this Act; and

10 (B) the individual has graduated from, or  
11 is at the time of application enrolled in, an in-  
12 stitution of higher education in the United  
13 States (described in clause (iv) of such subpara-  
14 graph).

15 (d) CONFIDENTIALITY OF INFORMATION.—Neither  
16 the Attorney General, nor any other official or employee  
17 of the Department of Justice, or bureau or agency thereof,  
18 may—

19 (1) use the information furnished by the appli-  
20 cant pursuant to an application filed under the  
21 amendments made by this section for any purpose  
22 other than to make a determination on the applica-  
23 tion;

1           (2) make any publication whereby the informa-  
2           tion furnished by any particular individual can be  
3           identified; or

4           (3) permit anyone other than the sworn officers  
5           and employees of the Department or bureau or  
6           agency or, with respect to applications filed with a  
7           designated entity, that designated entity, to examine  
8           individual applications.

9   Whoever knowingly uses, publishes, or permits informa-  
10   tion to be examined in violation of this subsection shall  
11   be fined not more than \$10,000.

12       (e) ELIGIBILITY OF CANCELLATION APPLICANTS FOR  
13   FEDERAL EDUCATIONAL ASSISTANCE.—Section 431(b) of  
14   the Personal Responsibility and Work Opportunity Rec-  
15   onciliation Act of 1996 (8 U.S.C. 1641(b)) is amended—

16           (1) by striking “; or” at the end of paragraph  
17           (6) and inserting a comma;

18           (2) by striking the period at the end of para-  
19           graph (7) and inserting “, or”; and

20           (3) by adding at the end the following new  
21           paragraph:

22           “(8) an alien who has been granted relief under  
23           section 240A(b)(3) of the Immigration and Nation-  
24           ality Act, or with respect to whom an application

1 under such section has been filed but not finally  
2 been adjudicated.”.

3 (f) REGULATIONS.—

4 (1) PROPOSED REGULATIONS.—Not later than  
5 60 days after the date of the enactment of this Act,  
6 the Attorney General shall publish proposed regula-  
7 tions implementing this section.

8 (2) INTERIM, FINAL REGULATIONS.—Not later  
9 than 120 days after the date of the enactment of  
10 this Act, the Attorney General shall publish final  
11 regulations implementing this section. Such regula-  
12 tions shall be effective immediately on an interim  
13 basis, but are subject to change and revision after  
14 public notice and opportunity for a period for public  
15 comment.

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